IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 575 of 1997

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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SHANKARBHAI DAHYABHAI PATEL

Versus

PATEL MAGANBHAI RANGABHAI

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Appearance:

MS REKHA B MAHARAJA for Petitioner Nos. 1-4

MR BP DALAL for Respondent No. 1-3

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CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 10/03/2004

ORAL JUDGEMENT

The petitioners are the original defendants of Regular Civil Suit No.178 of 1996. In the aforesaid suit, an application Exhibit 5 was submitted by the original plaintiffs for interim injunction, which was rejected by the trial court, against which appeal, being

Civil Miscellaneous Appeal No.80 of 1996, was preferred by the original plaintiffs. The appellate court allowed the said appeal of the original plaintiffs and granted injunction as prayed for in the suit. The original defendants have challenged the order passed by the appellate court in this Civil Revision Application.

Considering the nature of the order, it is clear that it is interlocutory in nature. In a pending suit, interim injunction has been granted by the appellate court. In view of the amendment in Section 115 of the Code of Civil Procedure, this Civil Revision Application is accordingly rejected as not maintainable. Rule is discharged. No costs.

It is clarified that it would be open for the petitioners to challenge the impugned order of the appellate court by filing a Special Civil Application under Article 227 of the Constitution of India, if the petitioners so desire. In order to enable the petitioners to take appropriate recourse in accordance with law, interim relief granted by this Court is ordered to be extended upto 25th March, 2004.

10th March, 2004 ( P.B. Majmudar, J. )

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(apj)